

# **WHEATLAND ZONING REGULATION**



**ADOPTED AUGUST 12, 1993**

**AMENDED JUNE 29, 1999**

**RESOLUTION 1999-34**



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## **SECTION A      DISTRICT AND ZONE BOUNDARIES**

### **A.1      Boundaries**

These regulations shall be applicable to the Wheatland Planning and Zoning District, created by the Gallatin County Commission on the 22<sup>nd</sup> of March 1979.

### **A.2      Certificate**

The Official Zoning Map shall be available at the County Clerk and Recorder's Office and shall bear a certificate with the signature of the Chairman of the Gallatin County Commission, attested by the County Clerk and the date of adoption.

### **A.3      Map Changes**

At such time as map amendments are made, or in the event that the map becomes damaged, destroyed, lost or difficult to interpret, the Official Zoning Map shall be updated, adopted, and certified pursuant to Section A.2 of this regulation.

### **A.4      Official Zoning Map**

Regardless of the existence of purported copies of the map which may from time to time be made or published, the Official Zoning Map on file in the office of the County Clerk and Recorder shall be the final authority as to current zoning in the district.

*(Amended by County Commission Resolution No. 1999-34 on June 29, 1999.)*

## **SECTION B      APPLICATION OF REGULATIONS**

### **B.1      Continuation of Existing Uses**

Any use made of land or buildings at the date of this Resolution's enactment may be continued although such use may not comply with this Resolution.

### **B.2      Future Uses**

No building shall be erected or altered unless it complies with the regulations of this Resolution. Land use shall not be changed unless the use complies with the regulations of this Resolution.

### B.3 Discontinuance of a Use

No building structure, or premises where a nonconforming use has been discontinued for a period of twelve (12) months or more shall again be put to a nonconforming use.

## SECTION C      **DEFINITIONS**

### C.1 Authority

For definition not given below: Webster's New Collegiate Dictionary

## SECTION D      **GENERAL REGULATION**

### D.1 Construction Time

All dwellings must be completely enclosed in the following time periods, all structures with materials and components designed for exterior use:

1. Dwelling use: one ( 1 ) year
2. All other uses: two (2) years

### D.2 Vehicle Parking Requirements

Two off-street parking spaces shall be provided for each residential dwelling.

### D.3 Building Height

Maximum building height in this district shall be twenty-four feet (24') from the average grade.

### D.4 Lot Coverage and Floor Area

Not more than fifteen percent (15%) of the lot area shall be occupied by principal and accessory buildings, and each dwelling unit shall have a minimum of One Thousand (1,000) square feet of floor area.

### D.5 Lot Area and Width

Lot area for this district shall be determined by existing soil conditions and ground water and other limitations for urban development. Under no circumstances shall the lot area be less than one (1) acre.

## **SECTION E      PERMITTED USES AND ZONING TYPES**

### **E.1      Intent**

There shall only be the following zoning designation within the district:

1.      R-S 1: No more than one residential dwelling per acre which residential dwelling may either be one single family dwelling or one two family dwelling.

### **E.2      Home Occupation**

An occupation carried on in a dwelling shall have the following restrictions:

1.      No persons other than members of the family residing in the dwelling may be employed in the occupation.
2.      No traffic or parking shall be generated in volume than would normally be expected in a normal residential neighborhood.
3.      Not more than twenty-five percent (25%) of the living area of the dwelling may be used for the occupation.
4.      All other regulations in this Resolution must be followed.

## **SECTION F      YARDS**

### **F.1      Minimums**

1.      Every lot shall have the following minimum yards:

FRONT YARD	Thirty-five feet	35'
REAR YARD	Twenty-five feet	25'
SIDE YARDS	Twenty-five feet each	25' each side

## SECTION G      ADMINISTRATION

### G.1      Invalidation

If any section, subsection, subdivision, sentence, clause, paragraph, or phrase is for any reason held to be unconstitutional or void such decision shall not affect the validity of the remaining portions of this zoning plan to render the same operative and reasonably effective for carrying out the main purpose and intention of the zoning plan.

### G.2      Variances

The Zoning Commission may authorize, upon appeal in specific cases, such variances to the public interest; but only in such cases where, owing to special conditions, the Zoning Code will result in practical difficulty or hardship, so that the spirit of the Code shall be observed, public safety and welfare secured, and substantial justice done.

### G.3      Conditional Uses

#### a.      General:

1.      Approval required: Uses listed as permitted by conditional grant may be authorized in the district in which listed upon application to the County Zoning Commission and subject to its conditional approval.
2.      Basis of approval: The County Zoning Commission shall consider the effect of such grant on the health, general welfare, safety and economic prosperity of the county and of the immediate area in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, and the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect resulting from noise, dust, smoke or odor, and other factors.

#### b.      Procedure:

1.      Application: A request for a conditional use grant shall be submitted in writing to the county zoning enforcement agency who shall prompt refer the application to the County Zoning Commission. The application shall be accompanied by appropriate data and any information necessary to properly evaluate the request.
2.      Hearing: The County Zoning Commission shall schedule a public hearing on the application within thirty (30) days after it is filed.



3. Determination: The County Zoning Commission shall report its decision within thirty (30) days after the filing of the application. Its decision shall include an accurate description of the use permitted, and any and all conditions made applicable thereto.
4. Mapping and Recording: When a conditional use is approved, an appropriate record shall be made of the land use and building permits and such grant shall be applicable solely to the structures, uses and property so described.
5. Termination: Where a permitted conditional use does not continue in conformity with the conditions of the original approval, the conditional grant shall be terminated by action of the Zoning Commission.

#### G.4 County Zoning Enforcement Agent

##### a. Designation

The County Planning Committee shall appoint a county zoning enforcement agent for the administration and enforcement of the provisions of this ordinance. The County Planning Committee may also authorize designation of deputy zoning enforcement agents to assist in the enforcement and administration of this ordinance.

##### b. Duties

In administering and enforcing this ordinance, the county zoning enforcement agent and any of his deputies shall perform the following duties:

1. Provide necessary forms for applications for use permits.
2. Issue land use permits where the provisions of this ordinance have been complied with.
3. Survey the County, upon adoption of this ordinance and, when necessary upon the passage of amendments, identify and record information relative to nonconforming uses and structures.
4. Maintain files of applications, permits and other relevant information.

##### c. Powers

The county zoning enforcement agent and his duly appointed deputies shall have powers and authority including but not limited to the following:

1. At any reasonable time, and for any proper purpose to enter upon any public or private premises and make inspection thereof.

2. Upon reasonable cause or question as to proper compliance, to revoke any land use permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this ordinance.

#### G.5 Land Use Permits

##### a. Permit Required

No structure shall be built, moved or structurally altered, and no land use shall be substantially altered, until a land use permit has been issued by the county zoning enforcement agent. He shall not issue a permit for a structure or a use not in conformity with the requirements of this ordinance. The fee for filing of applications for land use permits shall be established by the County Zoning Committee.

##### b. Application Procedures

Applications for land use permits shall be accompanied by the scale maps or drawing showing accurately the location, size and shape of the lot(s) involved, and of any proposed structures, including the relation to abutting streets and any abutting lakes or streams, and the existing and proposed use of each structure and lot, and the number of families to be accommodated.

##### c. Expiration

Land use permits for construction, alteration or removal of structures shall expire six (6) months from their date of issuance if no building activity has begun within such time. Land use permits for land use changes shall expire eighteen (18) months from their date of issuance where no action has been taken to accomplish such changes.

##### d. Exceptions

A land use permit is not required for farm buildings or structures not for human habitation.

#### G.6 Violations

##### a. Penalty

Any person who violates this ordinance shall be subject to a fine up to \$500, plus costs of prosecution, for each day of violation. default of payment shall result in imprisonment in the County Jail for a period not to exceed 6 months.

## **SECTION H      AMENDMENTS**

### **H.1      Procedure**

The Zoning Commission may amend this ordinance in accordance with the procedures prescribed by Montana Statutes.

### **H.2      Fee**

All applications for permits, zone changes, conditional uses, or variances shall be accompanied by the applicable fees, which shall be established by the Planning and Zoning Commission by resolution after public notice and hearing.

## **SECTION I      PUBLIC HEARINGS**

### **I.1      Notice**

Adequate notice shall be given of any public hearing required by the provisions of this ordinance, stating the time and place of such hearing and the purpose for which it is being held.

### **I.2      Procedure**

#### **a.      Posting and Publishing**

1.      Notice of public hearing shall be given as per Montana Statutes.
2.      In addition, when the hearing involves a proposed change in the zoning district classification of any property, or the granting of a conditional use, notice shall also be given to the real property owners affected by the change. The failure of such notice to reach any property owner shall not invalidate any amending ordinance or grant of a conditional use.

## **SECTION J      TEMPORARY GRAVEL EXTRACTION**

- J.1      Notwithstanding anything herein to the contrary, Petitioner shall be permitted to extract gravel from the land affected by this petition for a period of three (3) years from the date hereof on the condition that Petitioner comply with local and state laws applicable to such extraction.

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## SECTION K            ADOPTION

Wheatland Planning and Zoning District was created on the 22<sup>nd</sup> of March 1979, by the Gallatin County Commission. This regulation was adopted on the 12<sup>th</sup> of August 1993, by the Planning and Zoning Commission, and amended thereafter. The regulation has been revised consistent with the history of amendment listed below.

### **Planning and Zoning Commission:**

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Shelley Vance, Chairman

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Jeffrey Krauss, Member

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William A. Murdock, Member

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Phil Olson, Member

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Jennifer Smith Mitchell, Member

### **Gallatin County Commission:**

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William A. Murdock, Chairman

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Phil Olson, Member

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Jennifer Smith Mitchell, Member

ATTEST:

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Shelley Vance, Clerk & Recorder

### ***History***

*Amended by the Planning and Zoning Commission on December 9, 1981.*

*Amended by the Planning and Zoning Commission on August 12, 1993.*

*Amended by Resolution No. 1999-08 of the Planning and Zoning Commission on June 17, 1999,  
and by Resolution No. 1999-34 of the Gallatin County Commission on June 29, 1999.*

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